

September 9, 2020

VIA ECF

The Honorable Vernon S. Broderick, U.S.D.J.
United States District Court for the Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square, Room 415
New York, New York 10007

APPLICATION GRANTED

SO ORDERED 

VERNON S. BRODERICK

U.S.D.J. 9/14/2020

RE: *U.S. Bank National Association, as Trustee for Merrill Lynch First Franklin Mortgage Loan Trust, Series 2007-3 v. First Franklin Financial Corporation, Merrill Lynch Mortgage Lending, Inc., and Bank of America Corporation* (Case No. 1:19-cv-4890) (“FFMER 2007-3”)

U.S. Bank National Association, as Trustee for Merrill Lynch First Franklin Mortgage Loan Trust, Series 2007-4 v. First Franklin Financial Corporation, Merrill Lynch Mortgage Lending, Inc., and Bank of America Corporation (Case No. 1:19-cv-5948) (“FFMER 2007-4”)

Dear Judge Broderick:

On behalf of the Plaintiff-Trustee and Defendants (together, the “Parties”) in the above-referenced FFMER 2007-3 and FFMER 2007-4 actions (the “Actions”), we write to inform the Court that, on August 21, 2020, the Plaintiff-Trustee received offers to settle the Actions (the “Proposed Settlements”). The Plaintiff-Trustee requires time to evaluate the Proposed Settlements, and on August 31, 2020, the Plaintiff-Trustee distributed to certificateholders in the trusts a notice, that, among other things, informed them of the Proposed Settlements and invited any certificateholders wishing to express their views to the Plaintiff-Trustee concerning the Proposed Settlements to contact the Plaintiff-Trustee. Accordingly, the Parties respectfully request that the Court stay these Actions in all respects until December 17, 2020, except that the Plaintiff-Trustee be permitted to continue to pursue certain document discovery from third-party entities not affiliated in any respect with any party (“Non-Party Discovery”) during the pendency of its evaluation of the Proposed Settlements.¹ The stay requested herein will allow the Court and the Parties to avoid the unnecessary expenditure of resources while the Plaintiff-Trustee evaluates the Proposed Settlements.²

The Parties propose that, should the Plaintiff-Trustee’s evaluation of the Proposed Settlements remain ongoing as of December 17, 2020, the Parties will advise the Court of the status of the Plaintiff-Trustee’s evaluation and request additional relief, if necessary. The Parties further propose that, within 14 calendar days of the Plaintiff-Trustee informing Defendants in

¹ Defendants do not oppose the Plaintiff-Trustee continuing to pursue the Non-Party Discovery, though Defendants disclaim any obligation to incur any cost or expense in support of or in connection with such Non-Party Discovery.

² Defendants Bank of America Corporation and Merrill Lynch Mortgage Lending, Inc. moved to dismiss the secondary liability claims alleged in the Plaintiff-Trustee’s complaints filed in the FFMER 2007-3 and FFMER 2007-4 Actions. Those motions are fully briefed and each is *sub judice*. (19-cv-4890, Dkt. Nos. 27 & 49; 19-cv-5948, Dkt. Nos. 28 & 50.)

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writing that the Plaintiff-Trustee has completed its evaluation of the Proposed Settlements, the Parties inform the Court of the outcome and confer as to whether any stay should remain in place. In the event that the Proposed Settlements do not result in the Plaintiff-Trustee accepting settlements of the Actions, the Parties shall propose a schedule concerning further litigation of the Actions.

We appreciate the Court's consideration of this request, and the Parties are available to address any questions the Court may have.

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Respectfully submitted,

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